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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic reports of States parties due in 1994

Addendum

SWEDEN*

[27 October 1994]

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** Available for consultation with the secretariat.

Article 1

1. Sweden has no colonies and is not responsible for the administration of any Non-Self-Governing or Trust Territories.

Article 2

Paragraph 1

2. As stated in earlier Swedish reports the Swedish Constitution prohibits discriminatory treatment by courts or administrative authorities and enactment of any discriminatory laws and regulations (see CCPR/C/1/Add.9, para. 2 and CCPR/C/58/Add.7, para. 9).

3. Non-nationals are guaranteed almost the same rights as citizens in Sweden. Non-nationals with permanent residence permits have the right to work and the right to social benefits in the same manner as citizens. Differences apply to voting rights in parliamentary elections and may apply in referenda. Swedish citizens also have a stronger guarantee against extradition, and Swedish citizens can never be deported. Only Swedish citizens have compulsory military service.

4. The 1989 Aliens Act and Aliens Ordinance, which were described in some detail in the previous report of 1989, are still in force. The major changes to the Act since 1989 consist of the establishment as of 1 January 1992 of an Aliens Appeals Board, which deals with appeals of the decisions made by the Board of Immigration. The Aliens Appeals Board as well as the Board of Immigration are independent authorities. Both these authorities can decide to hand over cases to the Government, if there are foreign and security policy reasons to do so or if the authorities want the Government to decide on policy matters, but there is no provision for appeal to the Government.

5. A committee is at present investigating how the Government should be involved in individual cases in future, in order to best guarantee coherent practice.

6. After a final decision has been made in an asylum case, the applicant can file a new application if there are new circumstances which have not previously been tried. Since 1 July 1994 these new applications are filed with the Asylum Appeals Board rather than the Board of Immigration, thus with the second-level authority.

7. There has been no change to the substance of the right of asylum in the Aliens Act. Since 1 July 1994 there is a possibility to issue temporary residence permits to persons who are in need of temporary protection. The rules for expulsion by courts due to crimes committed in Sweden have been changed from 1 July 1994. The number of cases where foreigners who commit crimes in Sweden can be expelled have been increased. There still have to be special reasons to expel the alien and he or she must have been sentenced to a more severe penalty than a fine. Due to the agreement on the European Economic Area (EEA), special rules now apply for the entry and residence of citizens of EEA States.

8. The entire area of migration and immigrant policy is at present the subject of a parliamentary enquiry. The enquiry is to investigate many different aspects of migration into Sweden and the rights of aliens in Sweden. Reports on the findings of the enquiry are to be presented during 1994 and 1995.

9. The so-called Act on Terrorists of 1989 has been replaced in 1991 by the Act on Special Control of Aliens. The Act stipulates that the Government can decide to expel aliens if necessary for reasons of national security. In such cases a hearing must be organized at which the alien is heard. It is possible in certain circumstances to detain aliens under this Act.

10. As from 1 July 1994 provisions have been introduced prohibiting ethnic discrimination on the labour market. The discrimination grounds are race, national or ethnic origin, or faith. The new legislation prohibits improper treatment on ethnic grounds of both job applicants and those employed. Discrimination against a job applicant is said to have occurred if an employer hires someone else on grounds of race, ethnic origin etc. Discrimination against an employee is said to have occurred if an employer treats an employee unfairly because of an ethnic factor. The main sanction against breaches of the prohibition is compensatory damages.

11. The Ombudsman against Ethnic Discrimination has been given a litigating role in the court procedures according to these provisions. The Labour Court is the main forum.

12. The Government has decided not to propose legislation prohibiting racist organizations. The reasons therefor are multiple. The experience of several European countries shows that a ban on racist organizations is ineffective. A ban would be extremely complicated to implement and there is a risk that the organizations would go underground, thereby making it difficult to monitor them. Swedish legislation does not directly prohibit racist organizations, nor is it possible to forcibly dissolve such organizations. This in no way means that the activities of such organizations are acceptable. On the contrary, in principle all manifestations of racism and ethnic discrimination are prohibited. This means in practice that racist organizations are forced into inactivity.

13. As from 1 July 1994 harsher punishments were introduced for a number of "ordinary" crimes often committed with a racist or xenophobic intent. Crimes against life and health and crimes of defamation fall under this heading.

14. As from 1 July 1994 a provision was introduced in the Penal Code to the effect that "ordinary" crimes committed with an intent to violate an individual or a group of people because of race, colour, national or ethnic origin, faith, or other similar reasons could lead to harsher punishments.

15. The Government has for three consecutive fiscal years since 1992/93 allocated resources to four independent boards (in the areas of education, immigrants, culture and young people) in order for these boards to cooperate and to take measures to combat racism and xenophobia in their respective areas.

16. The Government has appointed a working group for a youth campaign against xenophobia and racism. This group is to function as the national committee for the Swedish activities as part of the Council of Europe youth campaign against racism, xenophobia, anti-Semitism and intolerance. The working group is, inter alia, to engage in attempting to improve attitudes towards immigrants, encourage young people to engage in local activities, work out methods to be used by young people in combating racism and xenophobia and to disseminate ideas and experiences during the campaign. The group's work is to be finished by 30 June 1996.

17. The Government is also setting up a commission on xenophobia and racism. The commission, which will work for two years, shall, inter alia, develop a comprehensive strategy against xenophobia, initiate and support activities in the area and take initiatives concerning legislation.

18. Non-Nordic immigrants/asylum seekers have faced more difficulties during the present recession which has led to increased unemployment and declining labour force participation. This group, however, continues to have priority when it comes to labour market measures. During the last few years a higher proportion of this group has benefited from labour market measures than from unemployment measures. A new labour market measure, training schemes for immigrants, has been introduced in 1994. Immigrants who have resided in Sweden for less than five years can, within the framework of employment training, get practical experience at a place of work. The training shall preferably be connected to the vocational training or professional experience of the immigrant and may in all not exceed six months.

Paragraph 2

19. As mentioned in the third periodic report (CCPR/C/58/Add.7, para. 19) reference may be made to the information submitted in earlier reports regarding the technique used in Sweden to implement an international agreement.

20. In this context it should be mentioned that the European Convention for the Protection of Human Rights and Fundamental Freedoms is regarded as having such a special standing among the conventions on human rights that it should be treated differently from other conventions as regards incorporation into national law. Therefore, the Riksdag (Parliament) has decided that the European Convention shall be incorporated into the Swedish legal system through a special act (SFS 1994:1219), which will enter into force on 1 January 1995. In this way all the rights and freedoms protected by the Convention will be valid as Swedish law. This means that the material content of the Convention will be directly applicable for the Swedish courts and other authorities applying law. In order to further stress the importance of the Convention, the Riksdag has taken a first decision on an amendment of the Instrument of Government which prescribes that no law or other provision may be adopted that comes into collision with Sweden's commitments according to the Convention. For this constitutional provision to enter into force at the same time as the special act it is necessary that the Riksdag takes a second, identical decision after the general elections in September 1994.

21. The impact that other conventions on human rights have had on the application of law in Sweden, inter alia, through interpretation of national laws and regulations in conformity with those conventions, will not be affected by the incorporation of the European Convention.

Paragraph 3

22. In the Penal Code an addition has been made to the enumeration of circumstances that shall be considered as aggravating when determining the culpability of a crime. The addition means that it should be especially considered if a motive for the crime has been to violate a person, an ethnic group or any other group of persons because of race, colour, national or ethnic origin, religious conviction or any other similar factor (prop. 1993/94:101, SFS 1994:306).

23. In Sweden's third periodic report the then new Act (1988:205) regarding Judicial Review of Certain Administrative Decisions was mentioned (CCPR/C/58/Add.7, para. 21 and paras. 158-163). What should be added in the present report on that law appears from what is said under article 14, paragraph 1.

24. In Sweden's latest report it was stated that an injured party according to the Act (1988:609) concerning Counsel for the Injured Party can have a legal counsel appointed for him at the expense of the State (CCPR/C/58/Add.7, paras. 23-24). Originally, such counsel was appointed in cases of sexual crimes. If there were special reasons a counsel could be appointed also in cases of crimes of violence and crimes against peace and health. The right to counsel for the injured party has been extended through a legal amendment that entered into force on 1 April 1994 (SFS 1994:59). In cases of crimes of violence and crimes involving infringement of integrity a counsel for the injured party shall be appointed if it can be assumed that the injured party has a need for such assistance. In addition thereto a counsel can be appointed in cases of other crimes against the Penal Code if it can be assumed that the injured party has a particularly strong need of such assistance.

Article 3

25. As mentioned in the third periodic report (CCPR/C/58/Add.7, para. 25) the principle of equality between men and women is laid down in the Constitution (chap. 1, sect. 2, and chap. 2, sect. 16). Information concerning action on equality in Sweden can also be found in the third periodic report of Sweden on measures taken to give effect to the Convention on the Elimination of All Forms of Discrimination against Women.

26. Equality between men and women is a guiding principle of government policy in Sweden. There is a considerable political consensus among the major political parties on the main goals for this policy. Since 1985 Parliament has adopted three Government Bills on equal opportunities, in 1988, 1991 and 1994. The legal obstacles to equality are removed and reforms have consistently been pursued in the field of economic, social and family policy, as well as in the areas of employment and education. Despite progress much still remains to be done to achieve de facto equality.

27. The importance of society's formal and informal power structures and the question of how power and influence in society are allocated between women and men have been increasingly stressed in recent years in Sweden. The unequal power relationship between the sexes is essential in the work for equality. This means that efforts for equality must not only be focused on the changing of attitudes in general or be concentrated solely on increasing women's resources and knowledge, but also be focused on changing the structures in society, which contribute to maintaining gender segregation, female subordination and male domination. The role of men and the importance of their participation in work for equality cannot be sufficiently stressed.

28. In June 1988 the Riksdag adopted a five-year action plan for an equal opportunities policy. By 1993 a review was made of the results and impact of the plan. Positive results could be noted in certain areas in which specific timetabled targets had been established. The overall aims of the plan of action, to provide an opportunity for a more long-term approach, to denote a higher level of ambition for equality policies and to concretize the Government's own efforts in this area, had achieved such results.

29. In the proposed new Equal Opportunities Act of 1991 (see para. 31) further measures were proposed for strengthening and enlarging the plan of action, e.g. methods for counteracting violence against women. The Government's Equal Opportunities Bill "Shared Power, Shared Responsibility" (prop. 1993/94:147) states that the overriding aim of the equal opportunities policy should be unaltered. In other words, women and men are to have the same rights, obligations and opportunities in all essential fields of living. It was noted that much remained to be done before this goal would be achieved. A further tightening up of the Equal Opportunities Act, the introduction of a father's month in the parental insurance system and financial support for projects and trial schemes in order to increase women's participation in decision-making were some of the most important proposals in the Bill.

30. The overriding aim of equal opportunities policy can be broken down into more concrete sub-targets:

(a) Equal sharing of power and influence between women and men;

(b) The same opportunities of economic independence for women and men;

(c) Equal conditions and terms for women and men as regards enterprise, work, conditions of service and other working conditions and opportunities of development at work;

(d) Equal access for girls and boys, women and men to education, and the same possibilities of developing personal ambitions, interests and talents;

(e) Women's and men's identical responsibility for the home and children;

(f) Freedom from sexualized (gender-related) violence.

31. A new Equal Opportunities Act which came into force on 1 January 1992 is aimed at improving conditions in working life, above all for women. The labour market parties are to cooperate with a view to achieving equal opportunities at work. The new Act has expanded the rules applying to the active promotion of equal opportunities by the employer. Employers must promote a well-balanced distribution of women and men in various types of work and employee categories. Employers must prevent differences in pay and in other terms of employment between women and men who perform equal work or work of equal value. Under the Act the employer must facilitate the combination of gainful employment and parenthood by both women and men and must counteract the subjection of employees to sexual harassment. Furthermore, employers with at least 10 employees are required to draw up an annual plan for their promotion of equal opportunities. A statutory amendment which entered into force on 1 July 1994 has eliminated the previous faculty of replacing the rules of the Equal Opportunities Act on active promotion of equal opportunities and concerning a plan of equal opportunities with other provisions of collective agreements. The employer, therefore, is always duty bound to observe the rules of the Act, even if there is a collective agreement. The supervisory field of the Office of the Equal Opportunities Ombudsman (JÄMO) has been similarly enlarged. An employer who does not comply with the requirements for these active measures for equality at the workplace can be ordered by the Equal Opportunities Commission, at the request of the Equal Opportunities Ombudsman, to pay a fine. The amendment has made it the duty of employers with 10 or more employees to chart pay differentials between women and men at the workplace every year. A summary of the observations thus made has to be included in the equal opportunities plan which all such employers are required to prepare at annual intervals.

32. The provision of the Equal Opportunities Act prohibiting gender-based discrimination applies to both direct and indirect discrimination of this kind. It is also possible, in cases of equivalent qualifications, to attack a gender-discriminatory purpose on the part of the employer. When pay discrimination is alleged, the nature of equal or equivalent work can be adjudicated, even if there is no collective agreement or established practice in the field of activity concerned or an agreed job evaluation. An employer is expressly prohibited from subjecting an employee to harassment on account of the employee having rejected the employer's sexual advances or reported the employer for gender-based discrimination.

33. The measures taken by the Government and the projects carried out by the NGOs (funded from the national budget) to increase female representation on public boards and committees have been successful. Starting with an overall share of 16 per cent in 1987, by 1992 women constituted 30 per cent of board members in government authorities. This meant that the target had been achieved. In 1993 the figure was 32 per cent. The target for 1995 is that women's representation on these boards and committees should increase to 40 per cent and the final target is equal representation of women and men by 1998.

34. The Swedish experience shows that the setting of concrete time-specific targets, combined with active work to pursue these targets and make the issue visible, is a method which has worked very well in this field.

35. Active work on these issues is continuing. The Government has recently (1994) decided to make financial support available via the national budget for continuing projects and other schemes with this objective.

36. In 1993 the Government decided to appoint a governmental commission to review all issues related to violence against women, from a female perspective, and to recommend further measures to counteract this violence. In April 1994 the commission presented an interim report to the Government, whereby the setting up of a national centre for battered and raped women was proposed. This centre has been set up. The Commission will present its final report to the Government at the end of 1994.

Article 4

37. As mentioned in the third periodic report (CCPR/C/58/Add.7, para. 49) information as regards legislation concerning public emergencies and other provisions of article 4 was supplied in CCPR/C/1/Add.42, pages 4-5.

Article 5

38. As mentioned in the third periodic report (CCPR/C/58/Add.7, para. 50) the provisions of the Constitution and legislation in the area of criminal and public law are designed to prevent activities aimed at the destruction of any of the rights and freedoms provided for in the Covenant.

Article 6

39. Through the incorporation into Swedish law of the European Convention for the Protection of Human Rights and Fundamental Freedoms there will be an explicit provision on the right to life (see under art. 2, para. 3).

40. Sweden has ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

41. In Sweden capital punishment was abolished in 1921 in times of peace and in 1973 also in times of war. A prohibition against capital punishment is now included in the Swedish constitution (Chap. 2, sect. 4). It has therefore not been necessary for Sweden to take any special action in order to implement the provision of the Second Optional Protocol.

Article 7

42. As mentioned in the third periodic report (CCPR/C/58/Add.7 para. 52) the basic provision on protection against torture and other cruel, inhuman or degrading treatment is to be found in the Constitution (chap. 2, sect. 5) (see CCPR/C/1/Add.9 p.5).

43. Reference is made to the incorporation into the Swedish legal system of the European Convention for the Protection of Human Rights and Fundamental Freedoms (see para. 20).

44. The 1989 Aliens Act contains, as mentioned in the previous report, extensive safeguards against expulsion of aliens to a country where they risk persecution or where there is a danger of torture. In a number of cases brought against Sweden in 1993, in which the applicants have alleged that they would be at risk of torture if returned to their countries of origin, the European Commission of Human Rights at Strasbourg found that the provisions in the Swedish Aliens Act and the relevant procedures to prevent aliens from being expelled if they are in danger of torture are sufficient.

45. An official report on research ethics was presented in 1989. This has not resulted in any legislation.

Article 8

46. As appears from earlier reports the constitutional guarantees against slavery and the slave trade, servitude and forced or compulsory labour are to be found in chapter 2 of the Constitution (CCPR/C/58/Add.7, paras. 58-59 and CCPR/C/1/Add.9, p. 6).

Article 9

Paragraph 1

47. As mentioned in the third periodic report (CCPR/C/58/Add.7, para. 61) the right to liberty and security of persons is guaranteed by a number of provisions under Swedish law. The basic provisions described in the initial report (CCPR/C/1/Add.9, p. 7-8) still apply.

48. A new Compulsory Mental Care Act came into force on 1 January 1992, superseding the Compulsory Mental Care (Certain Cases) Act. A new Forensic Mental Care Act came into force at the same time. See annex 1 for an English translation of these acts.*

49. Compared with the previous legislation, the new enactments are based on a partly different view of mental illness and comparable mental abnormity. To indicate this, use is made instead of the collective term "serious mental disturbance". The legislation has been adapted to the development of psychiatry in favour of heavily restricted use of compulsory care. Assessment as to whether compulsory care must come into question has to be based on the patient's own caring needs. The new enactments also imply increased legal control of compulsory care, through a combination of adjudication (i.e. court proceedings) with a system of limited periods of care. Compulsory care requires the patient to be suffering from a serious mental disturbance, care to be absolutely necessary and impossible to provide by any other means but admission, and the patient to be opposed to care or incapable of expressing a properly grounded standpoint. When appraising the need for care, it must also be considered whether the patient is a danger to the personal safety or health of another person. Compulsory mental care must be for a fixed term. Compulsory care based on a care certificate and the doctor's admission order may be of up to six weeks' duration. If a longer period of care is needed,

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* Available for consultation with the Secretariat.

this requires a court order. The court takes action for care to be provided for up to four months from the date of the admission order. Further prolongation of the care period is subject to renewed adjudication. The possibility of "conversion" from voluntary to compulsory care is limited to cases where it is to be feared that a patient will seriously injure himself or somebody else. A conversion order must be followed within a short time by adjudication. Psychiatric treatment may only be given during compulsory care to the extent necessitated by the purpose of the compulsory care. The legislation also includes more detailed rules on the preconditions for such coercive measures as detention, prohibition of visitors, constraint and isolation, as well as inspection of mail, body search and similar measures. A patient must be able to obtain permission to leave the hospital temporarily if this is essential as a preparation for the termination of compulsory care. A "supportive person" can be appointed to support the patient, if the latter does not object. Judicial proceedings in matters relating to compulsory mental care are conducted by the general administrative tribunals. Public legal aid through public counsel is available in such cases.

50. The Forensic Mental Care Act regulates compulsory mental care for offenders. It applies mainly to persons receiving compulsory mental care as a consequence of criminal offences or remanded in custody or admitted to penal institutions. Among other things the Act defines the preconditions for care, how care is to be arranged, where it is to be provided and who is to make decisions in different respects.

51. The National Board of Health and Welfare has evaluated implementation of the new legislation and proposed certain amendments. Its proposals are at present being studied within the Government Chancery.

Paragraphs 1 and 4

52. The information in the previous report on detention of aliens is valid. The provisions on this in the Aliens Act are now in force. Detention can only be used in cases specified in the Act. The requirements are especially strict concerning children under the age of 16. The information on the right to have the detention decision tried are still valid. Only in exceptional cases can an alien be held in detention for more than two months and if a decision is taken to prolong the detention, a hearing must be held prior to the decision in accordance with the procedure described in the 1989 report.

Paragraph 3

53. What was said in the earlier report (CCPR/C/58/Add.7, paras. 78-86) is still valid. The evaluation mentioned in paragraph 84 did not result in any legal amendments. However, through a legal amendment that entered into force on 1 January 1994 (SFS 1993:1408), the judicial trial of the question of detention has been extended. If the court earlier stated that the reason, or one of the reasons, for the order of detention was that there was a risk that the suspect, e.g. by destroying evidence, would render the investigation more difficult if set free, the public prosecutor could order restrictions for the person in detention. Such restrictions means that the suspect's contacts with the world outside are limited. The decision by the public prosecutor could not be appealed against to the court but only referred to a higher prosecutor

for review. In order to get a judicial review the suspect had to appeal against the whole decision on detention. The amendment means that now the court can try the question of restrictions and that the decision can be appealed against to a court of appeal.

Paragraph 4

54. Chapter 2, section 9 (2) of the Constitution mentioned in the third periodic report (CCPR/C/58/Add.7, para. 87) still applies.

Paragraph 5

55. A right to compensation for a restriction of liberty that is not followed by a conviction is laid down in the Act (1974:515) concerning Damages for the Restriction of Liberty. The Act has not been substantially amended since the last report.

Article 10

Paragraph 1

56. A new law has been enacted on trials with intensive supervision through electronic control. Persons sentenced to short-time imprisonment shall, for a trial period in certain parts of the country, have the possibility to serve the sentence in their home. They will then be allowed to leave the home only to go to their work and for certain other specific purposes. The convict shall also totally abstain from alcohol. The observance of these instructions is watched over by electronic means. If the convict disobeys the rules he has to serve his sentence in a prison.

57. The following amendments have been made in the Act (1974:203) on Correctional Treatment in Institutions. By SFS 1990:1011 there has been introduced a possibility to order an inmate not only, as earlier, to work or take part in tuition or education, but also to take part in work-training or other occupation. At the same time those in need of tuition, education, work training or other occupation or of medical, psychological or other treatment shall be offered such during their imprisonment if it can be done considering the length of the imprisonment and the qualifications of the inmate. Furthermore, there has been introduced the possibility during the investigation of a disciplinary case to keep an inmate separate not only from other inmates but also from other persons as regards contacts through letters, telephone calls or visits.

58. By SFS 1991:1133 there has been introduced a provision by which letters between an inmate and an international body that has been recognized by Sweden as an authority to receive complaints from individuals shall be forwarded without inspection. If it is said that a letter is sent from such an international body and if there is good reason to suspect that the statement is false, the letter may be inspected, if the matter cannot be made clear in any other way. Those provisions were earlier only applicable to letters between inmates and Swedish authorities and lawyers.

59. By SFS 1993:210 the possibility was introduced to use blood tests to determine if an inmate has used drugs causing addiction.

60. By SFS 1993:1410 the possibility was introduced to keep inmates separate when conducting an inspection of their body.

61. In a recent report to the Law Council further amendments have been proposed. Certain amendments are proposed, inter alia, as concerns inspection of letters, visits (both concerning the possibility to check if a visitor is suspected of crimes and the possibility to survey the visit), searches, inspection of the body, the use of shackles and the taking of property into custody. The amendments aim at fighting the existence of narcotics in the prisons and to improve the order and safety in them.

62. Mental care is given in especially adapted institutions. The responsibility for these specially approved institutions for close supervision was transferred from municipal and county council authorities to the State in April 1994.

63. Further efforts are being made to build special facilities for the detention of aliens, in order to avoid having to detain aliens together with persons suspected of crimes.

Paragraph 3

64. What is said in the third periodic report (CCPR/C/58/Add.7, para. 96) on the possibilities to sentence young people to prison is still valid. The question of different forms of sanctions for young people has been investigated. A report with a proposal for a new system of sanctions has been sent out to different authorities for consideration. The report and the opinions are now being considered in the Ministry of Justice (SOU 1993:35, Reactions on Juvenile Crime).

65. A new type of sanction, community service, has been introduced. It is especially designed for young offenders. Community service can be imposed in combination with probation and is intended to be used as an alternative to imprisonment. The sanction means a duty for the offender to perform unpaid work for at least 40 and at most 200 hours.

Article 11

66. Reference is made to the third periodic report (CCPR/C/58/Add.7, para. 105).

Article 12

67. As described in previous reports (cf. CCPR/C/58/Add.7, paras. 106-107) the Constitution provides that every citizen is free to move within the country as well as to leave and return to it (chap. 2, sects. 7-8). These rights are, however, restricted, for both aliens and nationals, by the rules concerning arrest, provisional detention and detention on remand.

68. There are no restrictions on the freedom of movement of aliens in Sweden (apart from certain areas restricted to Swedish citizens for reasons of national security). The rules about restriction of movement to one municipality for aliens in certain circumstances have been abolished. Chapter 12, section 1, of the Aliens Act prohibits certain employment for aliens.

Article 13

69. The information on refusal of entry and expulsion is still valid, apart from - as mentioned above - that appeals against decisions by the Board of Immigration to refuse entry to or to expel a person are lodged with the Aliens Appeals Board. The Aliens Appeals Board is an independent authority with a number of chairmen, who are qualified judges, and an elected board. Cases of a simpler nature which are in line with the established practice of the Board are decided by one of the chairmen alone.

Article 14

Paragraphs 1 to 3

70. The Act on Judicial Review of Certain Administrative Decisions, which was described in the third periodic report (CCPR/C/58/Add.7, paras. 21 and 158), was enacted in order to ensure that Swedish law corresponds to Sweden's obligations under article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Pending a final evaluation of the law some minor amendments have been made and the period of applicability has been extended until the end of 1994. This period will be prolonged by a further period of three years awaiting the final decision on a proposal recently presented on greater possibilities for judicial review of administrative decisions.

71. At present the general principle in Sweden is that an administrative decision can be appealed to a higher authority and in the last resort to the Government. However, many administrative decisions can be appealed to an administrative court. A committee appointed by the Government has during the autumn of 1994 proposed that the new general principle should be that administrative decisions are appealed to the administrative courts unless otherwise especially prescribed. The committee has furthermore proposed that the Act on Judicial Review of Certain Administrative Decisions should be made permanent in order to ensure the private individual the right to a judicial review since the Government in certain cases will remain as the reviewing instance and in certain other cases as the first and only instance. The committee has also proposed the introduction into the Act of a right to an oral hearing in cases of judicial review of administrative decisions, which means that for cases where the European Convention demands such a hearing it should never be considered as unnecessary to hold an oral hearing.

Paragraph 4

72. What was said in the earlier report (CCPR/C/58/Add.7, paras. 186-195 and 197) is still valid. However, on 8 July 1994 the Government presented a bill to the Riksdag with a proposal for legal amendments for the handling of

court cases on juvenile delinquency (prop. 1994/95:12). The aim of the proposals is, inter alia, to make the proceedings in cases of juvenile delinquency more speedy and more efficient. It is proposed to introduce a time-limit for the preliminary investigation. It should in principle not take more than four weeks from the day when the juvenile has been informed of the suspicion until the public prosecutor has decided whether or not to institute a prosecution. To a greater extent public prosecutors instead of policemen shall be the investigating authorities. Cases of juvenile delinquency shall be handled by policemen and prosecutors who are specially suitable for that task. In the courts cases against persons under 21 years of age shall be handled by judges with a special aptitude for work with juvenile delinquents. The Government also proposes legal amendments with the purpose that the guardians of the young and representatives of the social authorities shall assist to a greater extent in connection with the legal proceedings. An amendment is proposed regarding the right of those under 18 years of age to get a public defence counsel. The young person shall always get a public defence counsel if it is not evident that he or she does not need a counsel. The Riksdag will decide on the proposals during the autumn of 1994.

Paragraph 5

73. In the earlier report it was said that both the convicted person and the public prosecutor had an unlimited right to have the case reviewed in the second instance (CCPR/C/58/Add.7, para. 198). By a legal amendment that entered into force on 1 July 1993 there has been a certain restriction of that right. Now both the convicted person and the public prosecutor need a leave of appeal from the court of appeal to get a judgement from a district court reviewed if the defendant has not been sentenced to any other punishment than a fine or if he has been acquitted of the charge of a crime for which it is not stipulated a more severe punishment than a fine or six months' imprisonment. Leave of appeal shall be given only if it is of importance for the guidance of the application of the law that the case is reviewed by a higher court, if there is reason to change the judgement of the district court or if there are other extraordinary reasons for the case to be tried anew.

Paragraphs 6 and 7

74. Reference is made to the third periodic report (CCPR/C/58/Add.7, paras. 200-201).

Article 15

75. Reference is made to the earlier report (CCPR/C/58/Add.7, paras. 202-204).

76. Recently, there has been an amendment of the Penal Code whereby the principle of legality has been strengthened. Only such conduct that is covered by the wording of the penal law provisions shall be regarded as crimes. Thus, it shall not in any case be permitted to interpret the penal law provisions by analogy. Furthermore, the provisions prescribing exemption from criminal liability, inter alia for acts of self-defence, have been made clearer.

Article 16

77. As mentioned in the third periodic report (see CCPR/C/58/Add.7, para. 205) the right of everyone to recognition everywhere as a person before the law corresponds to the general principles of Swedish law. This right is implicit in the Constitution (chap. 1, sect. 9).

Article 17

78. The information in the third periodic report with regard to a person's personal integrity from unjust infringement (see CCPR/C/58/Add.7, paras. 207-209) still applies. As stated in the last report, the Constitution includes a rule protecting a person's personal integrity as far as computerized files are concerned (see CCPR/C/58/Add.7, para. 207).

79. Certain amendments have been proposed to the Constitution and the Data Protection Act in order to give the Data Inspection Board the power to make general rules for data processing in different sectors. It is also proposed that appeals against the Board's decisions shall go to the courts and not as now to the Government. If parliament agrees, these amendments will come into force on 1 January 1995.

80. A provision aimed especially at restricting the use of personal identification numbers (PINs) was introduced in the Data Protection Act on 1 January 1992. The provision is a result of a proposal mentioned in earlier reports (see CCPR/C/58/Add.7, para. 214). According to the provision PINs can be registered only when this is clearly motivated by the aim of the file, the importance of secure identification, or for some other reasons of significance. PINs can be included in computer printouts only for special reasons. After that, in 1993, the Commission on Personal Identification Numbers was appointed and its task has been to suggest measures to limit considerably the use of PINs in Sweden. The Commission has presented its report and the main proposal is a draft act on the use of PINs. The proposed act states that PINs can be collected, registered and used only when there exist legal grounds for this. The proposal will be under consideration at the Ministry of Justice during the autumn.

81. In the last report (CCPR/C/58/Add. 7, para. 214) a proposal for a special law concerning the sale of personal information from computerized files is mentioned. On 1 January 1992 the proposal came into force, not as a special law but as a new paragraph in an article in the Data Protection Act. The new regulation states that without the consent from the data subject it is prohibited for a public authority to sell personal information concerning the data subject, unless the sale is permitted by law or by a decision of the Government.

82. The Act on Special Control of Aliens, which has replaced the Act on Terrorists, contains rules concerning telephone tapping, searches and such measures as well as on control of post. Telephone tapping, control of post and similar measures must be decided by a court and carried out by the police. The Stockholm district court is responsible for such matters.

Article 18

83. As previously reported (CCPR/C/58/Add.7, para. 231) the right of freedom of thought, conscience and religion forms a part of the Swedish Constitution.

84. It is stated in the new curricula for the public school system that education in the school shall be non-denominational. In religious education the pupils shall be able to reflect upon different religious, ethic, moral and existential questions. The right to be liberated from religious education at compulsory school still exists if a pupil belongs to a religious denomination which according to a government decision has the right to give religious education.

85. In upper secondary school religious studies belong to the eight core subjects, which means that pupils cannot be liberated from the education in this subject. Religious studies at upper secondary level stress the insight in the thoughts, traditions, basic values and expressions of both Christianity and other world religions. The teaching shall give historical, institutional, cultural, religious and ethical perspectives of different religions and beliefs.

86. To ensure the religious and moral education of their children in conformity with their own convictions parents are free to choose an independent school. The National Agency for Education supervises the educational quality in such schools. From the school year 1992/93 the municipalities are obliged to compensate independent schools that are approved by the National Agency for Education for pupils who choose this type of school. Under certain conditions this also applies to independent schools at upper secondary level. As a consequence, the number of independent schools is increasing. In 1993 about 2 per cent of all children were enrolled in around 200 independent schools at compulsory level. Many independent schools are affiliated with certain pedagogy, such as the Montessori or Rudolf Steiner methods; others are based on confessional ideas.

87. The bond between the Church of Sweden and the State is in transition. The 1994 Church Assembly has proposed new rules to the Government regarding membership of the Church of Sweden. Today children automatically become members of the Church of Sweden at birth, provided that at least one of the parents is a member. In the proposed system membership will be based on baptism.

Article 19

88. As stated in the last report, the right to freedom of expression and freedom of opinion is protected by the Constitution (CCPR/C/58/Add.7, para. 236). Freedom of expression in printed matters is protected by the Freedom of the Press Act, which is a fundamental law.

89. A new fundamental law, the Fundamental Law on Freedom of Expression, came into force in 1992. It covers freedom of expression in modern media, such as radio, television, videotext, videos and motion pictures. The new fundamental law is modelled on the Freedom of the Press Act. This means that the principles of the Press Act prohibiting censorship and allowing freedom of

publication are applicable to the entire field of those media, except in two respects: the use of the radio frequency spectrum and prior scrutiny of films that are to be shown in public.

90. The right to transmit radio and TV programmes other than by land-line may - according to the Fundamental Law - be regulated in an act of law which contains provisions on licensing and conditions of transmission. The authorities shall seek to ensure that radio frequencies are utilized in such a way as to result in the widest possible freedom of expression and freedom of information (chap. 3, sect. 2).

91. According to the Fundamental Law motion pictures may - if they are to be shown in public - be previewed by a National Board of Film Censorship which is empowered to delete sequences in a movie or ban the movie. The Board can do so only in the interest of very young viewers and is directed against excessive brutality, etc. The Fundamental Law of Freedom of Expression forbids censorship of any other kind.

92. The principle of dual cover applies in most kinds of freedom of the press and freedom of expression offences. For liability to arise in a freedom of the press or freedom of expression case, an act must be an offence under both fundamental law and statute law. This means that liability may be reduced by amending the statute law but cannot be increased without amending both the fundamental law and the statute law. Most of the offences enumerated in the fundamental laws are offences against the security of the Realm and high treason offences. Some come under the heading offences against public order, for example agitation, incitement against population groups, child pornography. Offences against private persons are libel and affront. Criminal proceedings in respect of the freedom of the press and freedom of expression can only (except for libel and affront) be instituted by the Chancellor of Justice.

93. In spring 1994 the parliament decided to make it an offence to possess child pornography, both pictures in print and moving pictures. This amendment to the fundamental laws can enter into force earliest in 1999. Before that, after the general election this year, the new parliament has to adopt the amendment a second time.

Article 20

94. Reference is made to the third periodic report (CCPR/C/58/Add.7, paras. 244-249).

Articles 21 and 22

95. As appears from earlier reports the basic provisions on the protection of the right of peaceful assembly and the right of freedom of association are to be found in chapter 2 of the Constitution (CCPR/C/58/Add.7, para. 250).

96. Some changes were made in article 12, first paragraph, and in article 14, first paragraph, from 1 January 1989. Chapter 2, article 12, first paragraph, has the following wording: "The rights and freedoms referred to in article 1, subparagraphs 1-5, in articles 6 and 8, and in article 11, second paragraph,

may be restricted by law to the extent provided for in articles 13-16. After authorization in law, they may be restricted by statutory order in the cases referred to in chapter 8, article 7, first paragraph, subparagraph 7, and in chapter 8, article 10. Freedom of assembly and the freedom to demonstrate may similarly be restricted also in the cases referred to in article 14, first paragraph, second sentence."

97. Article 14, first paragraph, has the following wording: "Freedom of assembly and the freedom to demonstrate may be restricted for the purpose of preserving public safety and order at the meeting or demonstration, or having regard to the circulation of traffic. These freedoms may otherwise be restricted only out of regard for the security of the Realm or for the purpose of combating an epidemic."

98. As regards the freedom of assembly of the kind covered by the article no substantial amendments have been made. The provisions regulating the arrangement and holding of meetings are, however, rewritten and assembled in a new act, the Act on Public Order (SFS 1993:1617).

99. During the period to which this report refers no changes have been made to the legislation concerning the right to form and join trade unions. The Labour Court has decided a number of cases concerning alleged violation of the right to organize (see annex 2*).

100. Reference is made to the report on the implementation of ILO Convention No. 87 of 1948 (the Freedom of Association and Protection of the Right to Organise Convention) (see annex 3*).

Article 23

101. From 1 January 1995 there will be legislation in Sweden on registration of partnership. The legislation has the following meaning: two persons of the same sex will be able to enter into partnership through a registration procedure. The registration means that most provisions concerning marriage will be applicable also to a registered partnership. The registration is intended for homosexual couples. However, no stipulations are made concerning sexual inclination, sexual relations or a common household. The registration procedure is proposed to correspond to the procedure in a civil marriage ceremony and a district court judge or a person appointed by the county administration shall be qualified to be a registrar.

102. The legal effects of a registration are proposed to correspond to what in principle are the effects of a marriage. This means, inter alia, that the parties will have access to the same system of property distribution as for marriage, they will have a mutual duty of economic provision, they will have mutual rights of inheritance and one partner will be able to assume the other partner's surname. The same applies to rules concerning pension benefits, safeguards for survivors and various other social benefits. From this main principle there will be exceptions concerning all rules giving rise to joint

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* Available for consultation with the Secretariat.

parenthood or joint custody of children. Thus, partners will not be able to adopt children, either jointly or singly. Neither will partners have access to insemination or other artificial conception.

103. What is said in paragraph 257 of the third periodic report (CCPR/C/58/Add.7) on children's allowances still applies. Children's allowances are payable, without application, for all children up to the age of 16. During 1993, these allowances were paid for some 1.7 million children. They are paid monthly at a uniform rate. For 1994, the rate was SKr 9,000 per annum.

104. What is said in paragraph 259 of the last report is still valid. As from 1982, an additional children's allowance has been payable, over and above the basic children's allowance, to families with three or more children. Allowances of this kind were paid to some 192,000 families during 1993.

105. There are also housing allowances for families with children. During 1993, such allowances were paid to some 346,000 families with children. The expenditure involved was earlier shared equally between the State and municipal authorities but is since 1994 the responsibility of the State authorities. In 1993 the cost was estimated at a total of SKr 6.5 billion.

106. If a child's parents are not living together, the non-custodial parent has to contribute towards the child's upkeep by paying a maintenance allowance. If the non-custodial parent does not pay the allowance, the custodial parent can, on application, obtain a maintenance advance from the State. The non-custodial parent's debt is in that case transferred to the State. For 1994, the rate of maintenance advance was SKr 1,173 per month. The number of children for whom maintenance allowances were paid during the fiscal year 1993/94 was estimated at some 305,500. Expenditure for the fiscal year was estimated at SKr 3.1 billion. There are also special allowances for children adopted by only one person.

107. The national insurance scheme includes provisions regarding parental insurance and child pension. Since 1994 the parental insurance scheme has included parental benefit for 12 months in connection with childbirth and during the child's first four years. It entitles parents to a leave of absence from work for 12 months with financial compensation at the same level as sickness benefit. Compensation from parental benefit is taxable and qualifies the recipient for a future national supplementary pension in the same way as income from employment. Parental benefit is also payable to adoptive and foster parents.

108. One important aim of the parental insurance scheme is to make it more available to fathers, underlining the Swedish view that care of the children is the responsibility of both parents. Accordingly, the mother and the father can divide the 12 months of time off between them. Furthermore, fathers are entitled to 10 days' leave of absence with parental benefit in direct connection with childbirth. During the fiscal year 1991/92 39 per cent of the fathers stayed home from work an average of 53 days in order to take care of their children under the age of 12 months. Various efforts have been made to stimulate fathers to make use of their opportunities.

109. From 1 January 1995 there will be a change in the parental insurance scheme. The financial compensation will be lowered from 90 to 80 per cent of the gross income, except for two months which will remain at the 90 per cent level. One of these months can be used only by the mother and one month is reserved for the father. This emphasizes that a child has the right to both of its parents. This father's month caused quite a debate among the political parties before the decision was made in parliament in 1994. A single mother will be able to use two months with 90 per cent financial compensation.

110. The parliament has also in 1994 decided on a parental child-care allowance. This allowance, which is taxable, is paid for children one to three years of age. The maximum amount is SKr 2,000 a month. The purpose of the parental child-care allowance is to ease the financial burden for families who choose to have one parent at home when the children are small. Those families whose children are in public care subsidized by the municipality get reduced or no allowance depending on the time the child spends in public child care.

111. Apart from the financial benefits, the most important support offered to families with children is that given by public child-care services. The most common form is the day-care centre. The Social Services Act makes municipal authorities responsible for building, running and developing child-care amenities in keeping with the predefined objectives. Apart from municipal amenities, a certain amount of child care is provided by others, for example parental cooperatives.

112. Starting on 1 January 1995, all municipalities must be able to offer children aged between 1 and 12 a place in child care within a few months of application. This is one of the points in a decided new part of the Social Services Act. The scarcity of places at day-care centres has for a long time been a problem for many families. In most municipalities, however, the public child-care services have now been expanded, so that everyone can obtain the place they need.

113. This legislated child-care guarantee also lays down stringent quality requirements. Those who work at day-care centres, preschools, leisure time centres for schoolchildren and family day-care homes must have adequate training or experience to ensure that the children's need for care and good educational activity are met. The groups of children must not be so large as to prevent this. The house environment must be suitable for its purposes.

114. A further aspect of the new legislation is that the municipalities are obliged to subsidize privately run day-care centres and leisure time centres. Public subsidies to child care are large. The parent's contributions average only about 15 per cent of the cost. Studies made in Sweden on the economic effects of the day-care services show that it pays to have services since it enables both parents to be in gainful employment which generates tax revenues.

115. Sweden was one of the first countries that in 1990 ratified the United Nations Convention on the Rights of the Child. On 1 September 1992 Sweden submitted the first report to the United Nations on how laws and statutory instruments as well as their implementation agree with Sweden's commitments under the Convention.

116. As from 1 July 1993, children and young people aged up to 18 have an Ombudsman of their own, heading the Office of the Children's Ombudsman. The Office of the Children's Ombudsman is a national board under the supervision of the Swedish Ministry of Health and Social Affairs. One of the main tasks of the new office is to supervise the rights and interests of children and young people with reference to the Convention on the Rights of the Child.

Article 24

117. In a bill to the Riksdag the Government has proposed to make more severe certain penal rules aiming at the protection of children from sexual outrage (prop. 1994/95:2). In addition to earlier provisions it is proposed, inter alia, that it shall be a crime to make a child that has reached 15 but not 18 years of age take part in an act with sexual meaning if the act is a step in the production of a pornographic picture or constitutes posing in any other context. In addition it is proposed that the period of limitation for most sexual crimes against children shall be prolonged so that it starts when the child reaches 15 years old.

Article 25

118. In addition to what is said in the last periodic report (CCPR/C/58/Add.7, para. 276) with regard to participation in public affairs, it should be mentioned that parliament has decided that ordinary elections for parliament and for the local government communes' elected assemblies shall be held every fourth instead of third year and with a possibility for greater personal representation in the election for parliament. This decision requires a second decision after the election to parliament in 1994.

Article 26

119. In addition to the statement in earlier reports regarding non-discrimination (see CCPR/C/58/Add.7, para. 279), it should be mentioned that additional protection since 1 January 1992 is also offered by the Fundamental Law on Freedom of Expression (see art. 19). The Fundamental Law on Freedom of Expression provides (chap. 5, sect. 1) that any representation which is punishable under law shall be considered as an unlawful statement in modern media such as radio, television, etc. if it involves the same offences as mentioned in the Freedom of the Press Act.

120. Reference is further made to the descriptions under article 2 of certain changes in the legal system for counteracting racism, xenophobia and discrimination.

Article 27

121. As stated in the initial report, the Constitution (chap. 1, sect. 2) provides that the opportunities for ethnic, linguistic and religious minorities to maintain and develop a cultural and community life of their own shall be promoted.

122. The proposal mentioned in the third periodic report to refer to the Sami people in the Constitution (CCPR/C/58/Add.7, para. 290) has not led to any constitutional amendment since the present provisions in the Instrument of Government, seen against the background of Sweden's obligations under public international law, give the Sami people as an ethnic minority full constitutional protection.

123. The Riksdag has, however, taken a first preliminary decision to include as a new provision in chapter 2 of the Instrument of Government a protection for the freedom of trade and profession (chap. 2, sect. 20). In the same provision there is a constitutional basis for the legislation on the right of the Sami people to practise reindeer farming. In this way it is stressed that the privilege of the Sami people to practise reindeer farming is not in conflict with the constitutional protection of the freedom of trade and profession. The right of the Sami people to practise reindeer farming will also in future be regulated in law. If nothing else follows from special provisions in law, foreigners will be equated with Swedish citizens as regards the freedom of trade and the freedom to practise a profession and thus also as regards the trade-oriented side of the right of the Sami people to practise reindeer farming as it is regulated in law. The new constitutional rules require a second decision by the Riksdag after the general elections in September 1994 before they can enter into force on 1 January 1995.

124. In December 1992 the parliament passed a law to set up a governmental authority with the primary task of nurturing a living Sami culture in Sweden. The governing body of this authority is an assembly, the Sameting, with 31 members, all elected every fourth year from among the Sami population. The first elections took place in May 1993. In addition to the main task of fostering Sami culture, the Sameting has been assigned other specific functions, inter alia, to decide on the distribution of funds allocated by the Government to promote Sami culture and to support Sami organizations. The Sameting will also allocate other funds placed at the disposal of the Sami community for joint utilization and will appoint the board of the Sami school. The Sameting will also direct efforts to promote the Sami language and will participate in public planning to ensure that Sami needs are taken into consideration in the utilization of land and water resources, for reindeer breeding for example. The Sameting will also be responsible for information about Sami affairs.